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RUEHJB/AMEMBASSY BUJUMBURA PRIORITY 0001
RUEHKI/AMEMBASSY KINSHASA PRIORITY 0027
RUEHLA/AMCONSUL BARCELONA PRIORITY 3320
RUEHGV/USMISSION GENEVA PRIORITY 0872
RUEHRN/USMISSION UN ROME PRIORITY 0002
RUEHUNV/USMISSION UNVIE VIENNA PRIORITY 0072
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0414

C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000201

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L-EUR FOR PETER OLSON, KAREN JOHNSON
L-LEI FOR PROPP, CLIFTON JOHNSON
L-AN FOR ONA HAHS
THE HAGUE FOR HEATHER SCHILDGE

E.O. 12958: DECL: 02/22/2018
TAGS: [PGOV](#) [PREL](#) [PHUM](#) [KLIG](#) [KJUS](#) [OFDP](#) [SP](#) [RW](#)
SUBJECT: RWANDA/SPAIN: INTL ARREST ORDERS IN WORKS, NOT YET
DELIVERED

REF: KIGALI 107

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Classified By: DCM Hugo Llorens for reasons 1.4 (b) and (d)

11. (C) SUMMARY: Post agrees with ref A assessment regarding the February 7 indictments issued by Spanish National Court Judge Fernando Andreu of 40 Rwandan military officials on charges of genocide. The overall implication of the indictment is that Tutsi leadership, including President Kagame, were responsible for provoking the genocide, beginning with cross-border actions from Uganda against the GOR in October 1990, and subsequently conducting a "counter-genocide" that left more Hutus dead than Tutsis in the original genocide. The indictment identifies Rwandan Lieutenant Colonel Rugumya Gacinya as the current Rwandan Defense Attache to the U.S. and assigns to him responsibility for four massacres and participation in the assassination of a Spanish priest. Consular LES legal advisor notes that Judge Andreu's investigation has been underway for two years, including interviews with witnesses who claim direct knowledge of events, including former GOR officials, journalists, and a former U.S. Representative. Interpol told LES that Rwanda could elect to challenge any Interpol warrants requested by Spain as politically motivated, which would trigger an internal review by Interpol. Legatt has made an inquiry with Interpol but has not heard back. MFA contacts have indicated that the judiciary has issued international arrest orders, that Interpol-Spain has not yet received a request for red notices due to a bureaucratic delay, but that it should within a matter of days. The GOS had relayed to the GOR that the judicial process was not reflective of Spanish foreign policy, nor did the GOS endorse or have prior consultation on the indictments. END SUMMARY.

12. (U) Judge Fernando Andreu of the Spanish National Court filed a 182-page indictment charging 40 Rwandan officials with genocide, among other offenses, on February 6, 2008. While the indictment names President Kagame as one of those responsible for the genocide, it does not indict him, as the Court recognizes the immunity of heads of state. However,

the indictment names Lieutenant Colonel Rugumya Gacinya as the current Rwandan Defense Attache in Washington and does not recognize any immunity from prosecution he may currently enjoy due to his diplomatic status. Gacinya is accused of responsibility for the following: the Nyacyonga Field massacre in mid-April 1994; the massacre of civilian populations in the towns of Ngarama, Nyagahita and Kigasa; and the June 10, 2000 assassination of Spanish citizen and Catholic priest Isidro Uzcudun in Mugina. The indictment alleges that Uzcudun was murdered because of his testimony about massacres of Hutu populations in and around Mugina.

//PREAMBLE//

¶3. (U) The indictment begins as follows: (Embassy informal translation) "In the course of this investigation up to the present, rational and well-founded evidence has come to light that, beginning in October 1990, a highly-armed and well-organized group with a political-military structure initiated a series of activities of a criminal nature, first undertaking these acts from Uganda into the territory of Rwanda. In its first four years, the group undertook different organized, systematic actions toward the elimination of civilian populations, both via the initiation of hostilities against the Rwandan army and in the carrying out of terrorist acts of serious magnitude and intensity in Rwandan territory, principally in the north and center of the nation, all of this under a structured, stable, and strategically organized and regimented command. From the time the group obtained power (in Rwanda) through violence, it created and developed a regime of terror and a structure of criminality parallel to the State, dedicated, under a planned and pre-established design, to kidnapping, torture, rape of women and children, the carrying out of terrorist acts (both directly and under the simulated authorship of its enemies), the imprisonment of thousands of citizens without

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judicial process, the selective assassination of persons, the destruction and systematic elimination of cadavers through their disposal in unidentified mass graves, mass incineration of bodies, and dumping of bodies in lakes and rivers, indiscriminate attacks against the civilian population based on their ethnicity, seeking the elimination of the ethnic majority, and finally the carrying out of hostile actions both in Rwanda and in the neighboring country of Zaire (now Democratic Republic of Congo), producing indiscriminate, systematic massacres of refugee populations there and large-scale acts of pillaging to provide self-financing of these criminal acts, in addition to enriching its leadership."

//ADDITIONAL DETAILS//

¶4. (U) The official charges, including genocide, crimes against humanity, war crimes, conspiracy, and terrorist acts, are laid out on pages 138-147. The explanation of the National Courts concurrent jurisdiction to the International Criminal Tribunal for Rwanda (ICTR) is elaborated starting on page 147. The specific accusations against each of the 40 individuals are on pages 151-178.

¶5. (U) Pages 96-101 detail the testimony of former U.S. Congresswoman Cynthia McKinney. Page 95 describes a September 1994 visit by Jean Marie Vianney Ndagijimana to Washington and New York in which he allegedly was told separately by Boutros Boutros Ghali and former Assistant Secretary for African Affairs George Moose that if the

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killing of Hutus stopped, then a detailed report (the Gersony report) about the Tutsi massacre of approximately 30,000 Hutus would be swept under the rug.

¶6. (U) Judge Andreu's investigation has been underway for more than two years. The indictment contains testimony from numerous former GOR officials and anonymous protected

witnesses. The driving force behind this investigation is an NGO called the International Forum for Truth and Justice in Great Lakes Africa (aka Veritas Rwanda Forum), headed by Spanish citizens Juan Carrera and Jordi Palou-Loverdos. Palou-Loverdos is the legal representative of the nine Spanish citizens killed in the genocide. The Forum initially filed a lawsuit with the National Court in 2005. The Forum held a February 12 demonstration in Brussels to seek EU activity in executing the indictments. More information on this NGO can be found in English at www.veritasrwandaforum.org. The indictment attributes the deaths of the nine Spanish citizens to several of the 40 indicted individuals, but the indictment does not claim these deaths as jurisdiction for the charges, nor is the list confined to those who were involved in the deaths of the Spanish citizens.

¶7. (U) The indictment concludes by authorizing the preparation of arrest warrants to be sent to the National Police, the Spanish Civil Guard, and INTERPOL, as well as European Arrest Warrants (Page 181).

//JUDICIARY COMMITTED TO PURSUE ARRESTS//

¶8. (C) Embassy's LES legal advisor reached out informally to colleagues at Interpol and the National Prosecutor's office to inquire as to how and whether Judge Andreu's indictment would move forward with respect to international extradition requests and Interpol red notices. The Chief Prosecutor of the National Court told LES February 15 that Judge Andreu was committed to following through with prosecution, including extradition requests for all those named in the indictment other than those with immunity, although he did not specify whether this referred to President Kagame or more broadly to those currently holding diplomatic immunity. The Chief Prosecutor did not mention Interpol red notices.

¶9. (C) Interpol told LES that if Spain were to request red notices against the 40 individuals, the GOR could appeal the eventual Interpol decision via Article 3 by claiming the

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indictments are politically motivated, which would trigger an internal Interpol review. Separately, LEGATT made an informal inquiry with Interpol but has not yet heard back. LEGATT noted that Interpol will have some degree of a right of first refusal on whether or not to distribute the orders.

//MFA NOT SUPPORTIVE//

¶10. (C) Antonio Sanchez-Benedito, Spanish Deputy Director General for Sub-Saharan Africa, told Poloff February 14 that the GOS had not received prior notification of the indictments, nor had the Court asked for GOS input. Sanchez-Benedito noted that Spain is a country with complete separation between the judiciary and the executive, with a judiciary that has perhaps the broadest judicial jurisdiction in the world. He said the National Court made the decision without any consultation or advance warning of the government, although the GOS was aware of the investigation. Sanchez-Benedito said the GOS was not aware of the status of the order or whether the judiciary would seek Interpol warrants. He said that the decision of the court has absolutely nothing to do with the Spanish foreign policy, and he added that he had conveyed this message to the GOR. Of the Spanish universal mandate, he said "it is what it is; we have some judges who are interested in addressing human rights abuses worldwide." He noted the nine Spaniards who were killed as a result of the genocide, saying that the GOS has consistently sought justice for those crimes. But, he added, there are other fora where this is taking place - the ICTR in Arusha, the Great Lakes Conference, and the Tripartite plus mechanism, which the U.S. leads. He said that the GOS supports these initiatives as the way to create lasting justice in the region, and the MFA has said as much to the GOR.

¶11. (C) On February 22, Sanchez-Benedito repeated his previous message and added that MFA understood that the court had issued international arrest orders, although Spain's Interpol office had not yet received them, due to a bureaucratic delay on the Spanish side. He added his understanding that Interpol would receive the international arrest orders within a couple of days, and he concluded by repeating that the GOS had communicated to the GOR that it viewed these developments as unhelpful, but that it did not have power to intercede with the independent Spanish judiciary. Finally, Sanchez-Benedito noted President Bush's recent visit to Rwanda and inquired after whether the issue had been raised either by President Kagame with POTUS or by others with Secretary Rice. He said that the GOS would be very interested to know of any such developments. Poloff undertook to inquire.

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